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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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9 JEFF BOWMAN, et al.,

No. C-04-3525 MMC

10 Plaintiffs,

**ORDER DENYING AS MOOT (1) JOINT
STIPULATION FOR ORDER
SHORTENING TIME; AND (2) JOINT
MOTION REQUESTING CONFIRMATION
OF NOVEMBER 22, 2006 ENTRY OF
JUDGMENT**

11 v.

12 UBS FINANCIAL SERVICES, INC.,

13 Defendant.
14 _____/

(Docket Nos. 146, 148)

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16 Before the Court is the parties' Joint Motion Requesting Confirmation of November
17 22, 2006 Entry of Judgment and a joint stipulation for an order shortening time thereon,
18 both of which were filed December 19, 2006. Pursuant thereto, the parties seek
19 clarification that the Court's November 22, 2006 Order Granting Plaintiffs' and Defendants'
20 Motions for Final Approval of Settlement And Awarding Attorney's Fees, Litigation
21 Expenses, and Enhancement Payments ("November 22 Order") constituted entry of
22 judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure. According to
23 counsel for UBS, "[c]ertainty regarding the date of the final judgment is critical, because the
24 terms of the settlement in this case require disbursement of the settlement proceeds after
25 the lapse of the appellate period. . . . UBS does not wish to make that disbursement if there
26 is any doubt regarding the timing of appeal rights." (See Wilcox Decl. ¶ 2.) Where no
27 appeal has been filed, the settlement provides for disbursement of the settlement proceeds
28 within twenty calendar days after the deadline to appeal "entry of a Final Judgment
approving the Settlement." (See November 22 Order Ex. A (Joint Stipulation of Settlement))

¶¶ 20, 31(e).)

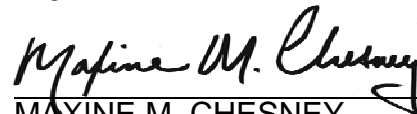
Here, however, on December 19, 2006, the same date the instant motions were filed, a notice of appeal was filed by proposed objector and intervenor Anthony D'Aria. The settlement provides that when an appeal is filed, the settlement proceeds will be disbursed within twenty calendar days after the date the Court's approval of the settlement has been "finally affirmed by an appellate court with no possibility of subsequent appeal or other judicial review therefrom[.]" (See November 22 Order Ex. A (Joint Stipulation of Settlement) ¶¶ 20, 31(e).) Because an appeal has been filed, distribution of the settlement proceeds does not depend upon expiration of the time to appeal.

Accordingly, the instant motions are hereby DENIED as moot. If the parties nonetheless desire formal entry of "judgment," they may submit a proposed form of judgment.

This order terminates Docket Nos. 146 and 148.

IT IS SO ORDERED.

Dated: December 20, 2006


MAXINE M. CHESNEY
United States District Judge